



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 8

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Director's Office
Office of Patent Publication

In re Application of
LUBRECHT, THEA E. :
Application No. 09/737,047 :
Filed: December 14, 2000 :
Attorney Docket No. P-3918D1 :
:

DECISION ON PETITION

This is a decision on the communication received in the United States Patent and Trademark Office (USPTO) on May 1, 2002, requesting that the Notice of Abandonment be withdrawn. The communication is being treated as a Petition To Withdraw Holding Of Abandonment under 37 CFR § 1.181. The deciding official in the Office of Patent Publications became aware of the communication on April 6, 2005, after receipt of the telephone inquiry.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision

Petitioner states that the Issue Fee Transmittal (Transmittal) was mailed to the USPTO on November 13, 2001. Petitioner has submitted a copy of the Transmittal with an executed Certificate of Mailing dated November 13, 2001.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR § 1.8(b)
"Express Mail" Mailing under 37 CFR § 1.10

Petitioner does not satisfy the requirement under MPEP 503 in that there's no evidence to support the usage of this procedure.

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

Petitioner does not satisfy requirement under 37 CFR 1.8(b) (3) in that an attesting statement was not provided.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). Forms are available at USPTO website <http://www.uspto.gov>

Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable: and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

Telephone inquiries concerning this decision may be directed to the undersigned at 703-305-8380.

Thomas E. Aspinwall

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication